

### **REMARKS**

In response to the Office Action mailed June 27, 2008, Claims 1-8 currently stand pending. Claim 1 is herein amended. Support for the amendment may be found generally throughout the specification, figures and originally filed claims, and more specifically in paragraphs 8 and 12 inclusive. No new matter has been added by this amendment.

#### **Claim Rejections**

A. 35 USC 112, first paragraph

Claim 1 stands rejected under 35 USC 112, first paragraph for alleged lack of written description. Specifically, the Examiner contends that the gel cutting containing a plurality of concentration points of different substances is not disclosed by the specification. Applicants respectfully traverse and overcome this rejection.

Applicants respectfully note that, contrary to the Examiner's contention, the feature "gel cutting containing a plurality of concentration points of different substances" is directly supported and described by the specification. This feature is supported by paragraphs [0008], [0012], [0016] and [0039] of the specification. Moreover, the first two sentences of paragraph [0002] state:

"In biotechnology in particular, mixtures of substances are often separated by exploiting of their different migration rates in gels, e.g., by chromatography or electrophoresis. The result of a separation of this type comes in the form of one or two dimensional distribution of concentration points of the substances in a gel layer."

When read as a whole, paragraph [0002] and paragraphs [0008], [0012], [0016] and [0039] of the specification clearly describe that the concentration points (as mentioned and described) in paragraphs [0008], [0012], [0016], and [0039] correspond to different substances which have different migration rates in gels.

Accordingly, Applicants respectfully submit that the 112, first paragraph rejection has been obviated, as one of ordinary skill in the art would understand and comprehend the specification's description of the claimed invention. Applicants therefore respectfully request that the 112, first paragraph rejection be withdrawn and that Claim 1 be placed into condition for allowance.

B. 35 USC 112, second paragraph

Claim 1 stands rejected under 35 USC 112, second paragraph for alleged indefiniteness. Specifically, the Examiner contends that the constant degree of swelling of the gel cutting is indefinite with the actual dimension of the gel cutting. Applicants respectfully traverse and overcome this rejection.

Applicants have amended Claim 1 to reflect that the dimensions of the gel cutting and thereby the physical distribution of the concentration points remains unchanged over time. In other words, an equilibrium degree of swelling of gel cutting 27 is achieved and therefore its dimensions remain unchanged over time." Support for this amendment may be found throughout the specification generally, and in particular in paragraphs [0008] and [0012] of the specification.

Accordingly, Applicants respectfully submit that the 112, second paragraph rejection has been obviated. Applicants therefore respectfully request that the 112, second paragraph rejection be withdrawn and that Claim 1 be placed into condition for allowance.

C. 35 USC 103(a)

1. 103(a) - Claims 1-3 and 5-8

Claims 1-3 and 5-8 stand rejected under 103(a) as being obvious over WO/01/50121 in view of Borresen (US 5,190,856). Applicants respectfully traverse and overcome this rejection.

Applicants first wish to note for the record that this rejection was apparently inadvertently made under 102(e). Applicants believe that 102(e) is inapposite given the Examiner's acknowledgment that the WO '121 reference does not teach all elements of Applicants' claims, and the conjunction of the secondary reference. Accordingly, Applicants hereby respond under the 103(a) rejection believed to be intended by the Examiner.

Applicants note in response that the 103(a) rejection in itself does not on its surface teach nor suggest all steps of Applicants' claimed invention. As referenced above, on page 6 of the outstanding Office Action, the Examiner acknowledges that Minden (WO '121) does not teach the following two steps of the method defined by claim 1:

- a) separating from a gel layer a gel cutting which contains a plurality of concentration points of different substances, and
- b) providing an equilibrating liquid over the gel cutting for a length of time sufficient to achieve an equilibrium degree of swelling of the gel cutting and thereby to ensure that the dimensions of the gel cutting and thereby the physical distribution of the concentration points remains unchanged over time.

The Examiner then alleges, on pages 6 and 7 of the outstanding Office Action, the above mentioned step b) would be obvious to one of ordinary skill in the art in view of the teaching of Borresen. However, even presuming *arguendo* that the Examiner's contentions have merit, the Examiner has implicitly acknowledged that step a) is not taught by either Minden or Borresen. Instead, Borresen is alleged to teach simply a TS equilibrating solution. Borresen does not teach, suggest or otherwise disclose step a) of Claim 1 and therefore Borresen fails to remediate the acknowledged deficiency of

Minden concerning step a) of Claim 1. Since both Minden and Borresen individually fail to teach step a) of claim 1, Applicants respectfully submit that ***the combination of Minden and Borresen also does not teach step a) of Applicants' claimed invention.***

Accordingly, Applicants respectfully submit that the 103(a) rejection as made is inapposite, as the combination of references do not teach, disclose or otherwise suggest all steps of Applicants claimed invention. As such, Applicants respectfully request the 103(a) rejection be hereby withdrawn and claims 1-3 and 5-8 be placed into condition for allowance.

## 2. 103(a) - Claim 4

Claim 4 stands rejected under 103(a) as being obvious over WO/01/50121 in view of Borresen (US 5,190,856) as applied to claims 1-3 and 5-8 above, and further in view of Moi et al (US 5,938,906). Applicants respectfully traverse and overcome this rejection.

Applicants note that Moi is asserted to only disclose a clamping means for holding the gel within a container. Moi does not teach, suggest nor disclose step a) of Claim 1, upon which Claim 4 depends. As Minden (WO '121) is acknowledged as failing to teach step a), and Borresen fails to teach step a) as well (see discussion supra), Applicants submit that the addition of Moi to the combination of Minden and Borresen does not teach, disclose or otherwise suggest step a) of Claim 1.

Since Minden and Borresen and Moi all individually fail to teach step a) of claim 1, Applicants respectfully submit that ***the combination of Minden, Borresen and Moi also does not teach step a) of Applicants' claimed invention and thus does not teach, disclose or otherwise suggest all steps of Applicants' claimed invention in Claim 1 and dependent claims thereon.***

Accordingly, Applicants respectfully submit that the 103(a) rejection as made is inapposite, as the combination of references do not teach, disclose or otherwise suggest all steps of Applicants claimed invention. As such, Applicants respectfully request the 103(a) rejection be hereby withdrawn and claim 4 be placed into condition for allowance.

No further fee is required in connection the filing of this Amendment. If any additional fees are deemed necessary, authorization is given to charge the amount of any such fee to Deposit Account No. 08-2525.

Respectfully submitted,

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